

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

FIRST STUDENT, INC.^{1/}

Employer

and

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL UNION NO. 557

Petitioner

Case 5-RC-15007

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.^{2/}
3. The Petitioner involved claims to represent certain employees of the Employer.^{3/}
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:^{4/}

All full-time and part-time school bus drivers and school bus aides employed by the Employer at its Baltimore and Glen Burnie facilities, but excluding all office clerical employees, dispatchers, safety coordinators, contract manager, lot men, shop employees, guards and supervisors as defined in the National Labor Relations Act.

DIRECTION OF ELECTION

An Election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, striking employees who have been discharged for cause since the

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strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL UNION NO. 557

LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. The request must be received by the Board in Washington by **May 16, 2000.**

Dated May 2, 2000

at Baltimore, Maryland

Regional Director, Region 5



1/ The name of the Employer appears as amended at the hearing. The record testimony establishes that Ryder Student Transportation, which was the name on the side of the buses, was changed to First Student, Inc. Employees were informed of this change by a letter that was in their paycheck. Additionally, the telephone at the Glen Burnie facility is answered by the statement "thank you for calling Ryder, now First Student."

2/ First Student, Inc. (herein the Employer), despite notice of the hearing herein, did not appear at the hearing. The Employer was served on April 6, 2000, with the Petition and Notice of Representation Hearing setting the hearing for April 14, 2000. By Order Rescheduling Hearing dated April 19, 2000, the hearing was rescheduled at the Employer's request from April 14, 2000 to April 21, 2000. By letter dated April 20, 2000, sent by facsimile, from a NLRB Field Examiner to the Employer's representative, the Employer was advised that the hearing would proceed as scheduled. Prior to the hearing, the Employer's representative had signed a Stipulated Election Agreement, Board Exhibit No. 3, which set-out the commerce language, as well as the Employer's position on the unit. The Petitioner, International Brotherhood of Teamsters, Local Union No. 557, (herein the Union) declined to sign the Stipulated Election Agreement as the parties did not reach agreement on a Supplemental Stipulated Eligibility Agreement that was proposed by the Union.

The commerce language in the Stipulated Election Agreement is as follows:

First Student, Inc., (herein the Employer) a Florida corporation is engaged in providing school bus transportation to the public school system at its facilities in Baltimore and Glen Burnie, Maryland. In the preceding twelve months, a representative period, the Employer annually purchased and received goods valued in excess of \$50,000 from points located outside the State of Maryland.

There is record testimony that the buses owned by the Employer are manufactured by the following manufacturers: Thomas, Ward and Bluebird. The Thomas buses are manufactured in North Carolina, while the witnesses did not know where the Blue Bird and Ward buses are manufactured. Based on the record, I find that the Board's statutory jurisdiction is established and the Employer is engaged in commerce within the meaning of the Act. Tropicana Products, 122 NLRB 121, 123 (1959).

3/ Since the Employer did not appear at the hearing, there is no stipulation regarding the labor organization status of the Union. Carlo Madonna, Recording Secretary and Organizer for the Union, testified regarding the Union. The Union is affiliated with the International Brotherhood of Teamsters. The record clearly shows that the Union admits employees to membership and represents employees in collective bargaining with employers, concerning wages, hours and working conditions. I find that the Union exists for the purpose, in whole or in part, for dealing with employers concerning wages, hours and other terms and conditions of employment, and that the Union is a labor organization within the meaning of Section 2(5) of the Act. Alto Plastics Mfg. Corp., 136 NLRB 850, 851-852 (1962); Butler Mfg. Co., 167 NLRB 308 (1967); Michigan Bell Telephone Co., 182 NLRB 632 (1970).

4/ The Union is seeking to represent employees in the following unit:

All full-time and part-time school bus drivers, full-time and part-time school bus aides employed by the Employer at its Baltimore and Glen Burnie facilities, but excluding all office clerical employees, dispatchers, safety coordinators, contract manager, lot men, guards and supervisors as defined in the National Labor Relations Act.

There are approximately 210 employees in the petitioned for unit. There is no history of collective bargaining with respect to the employees involved in this case. The Union waived the filing of a post-hearing brief.

Prior to the instant hearing, the parties attempted to reach agreement on a Stipulated Election Agreement. The Employer signed a Stipulated Election Agreement which indicated its agreement with the commerce facts and the following unit:

All school bus drivers and bus aides employed by the Employer at its Baltimore and Glen Burnie, Maryland facilities, excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

Neither the Union nor the Employer sought to include shop employees in an appropriate unit.

The issue that precluded agreement between the parties on a Stipulated Election Agreement was the formula for including employees in the unit who work on an irregular basis. The Employer did not agree to the proposed formula for eligibility regarding the number of hours an employee who works on an irregular basis must have worked to be included in the unit. Since no agreement was reached on the formula, the Union refused to sign the Stipulated Election Agreement, which had been signed by the Employer. The Employer informed the NLRB Field Examiner that he was not coming to the representation case hearing, even though he was told on April 20, 2000, by the Field Examiner, that since there was no agreement between the parties the hearing would proceed as scheduled on April 21, 2000. The Employer did not appear at the hearing on April 21, 2000.

I find that, based on the parties' positions and the record as a whole, a unit of full-time and part-time school bus drivers and school bus aides, excluding office clerical employees, dispatchers, safety coordinator, contract manager, lot men, shop employees, guards and supervisors is appropriate for purposes of collective bargaining and shall direct an election within that unit.

Since the record established that school bus drivers and school bus aides work varying numbers of hours and there was no precise information as to the schedules of all the drivers and aides, I find that any school bus driver or school bus aide who regularly averages 4 hours or more per week for the last quarter prior to the eligibility date has a sufficient community of interest in the unit and may vote in the election. See Davison-Paxson Company, 186 NLRB 21 (1970).